REMARKS

Claims 1-28 are pending in the application. Claims 1, 7, 13, 18 and 22 have been amended. Claim 28 has been added, no new matter was added.

Claim Rejections – 35 U.S.C. § 102(e)

The Patent Office rejected claims 1, 2, 4, 7, 8, 10, 13-17, and 19-22 under 35 U.S.C. 102(e) as being anticipated by Cluts, U.S. Patent NO. 5,616,876 ("Cluts").

Applicant respectfully submits that a *prima facie* case of anticipation has not been established for claims 1, 7, 13, and 22. For a claim to be anticipated, each and every non-inherent limitation must be disclosed in a single reference. M.P.E.P. § 2131. Further, "anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983). Emphasis added.

Claims 1, 7, 13 and 22 recite compiling a collection of media content over a discrete time period. The time period corresponds to the totality of the duration of the collection of media content.

Cluts discloses a method and system for selecting and playing audio selections (music) on the basis of subjective content. The Patent Office refers to Column 1, Lines 7-10 as evidence that the element is satisfied. This section merely teaches the compiling of a playlist of music based on user selected criteria. The ability to compile a list of songs matching user defined classifications does not teach the ability to play the songs within a time frame determined by a user's activities. Thus, Cluts does not disclose nor suggest a collection of media content over a discrete time period. Since Cluts does not disclose or suggest a collection of media content over a discrete time period, under *Lindemann*, anticipation of claims 1, 7, 13, and 22 has not been established. Since claims 2-6, 8-12, 14-21 and 23-27 depend from claims 1, 7, 13, and 22, respectively, claims 2-6, 8-12, 14-21 and 23-27 are believed allowable.

Claim Rejections – 35 U.S.C. § 103(a)

The Patent Office rejected claims 3, 9, 18, and 23 under 35 U.S.C. 103(a) as being unpatentable over Cluts and Pitman et. al., U.S. Patent No. 6,574,594 B2, ("Pitman").

The Patent Office rejected claims 5, 6, 11, 12 and 24-27 under 35 U.S.C. 103(a) as being unpatentable over Cluts and Picard.

Applicant respectively traverses the rejection of claims 3, 5, 6, 9, 11, 12, 18 and 23-27. Since claims 3, 5, 6, depend from claim 1, claims 9, 11, and 12 depend from claim 7, claim 18 depends from claim 13, and claims 23-27 depend from claim 22, claims 3, 5, 6, 9, 11, 12, 18 and 23-27 are believed allowable.

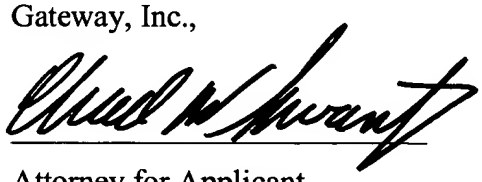
CONCLUSION

The application is respectfully submitted to be in condition for allowance. Accordingly, notification to that effect is earnestly solicited. In the event that issues arise in the application that may readily be resolved via telephone, the Examiner is kindly invited to contact the undersigned Attorney at (402) 496-0300.

Respectfully submitted,

Dated: May 20, 2004

Gateway, Inc.,



Attorney for Applicant
Chad W. Swantz
Reg. No. 46,329

Chad W. Swantz
Suiter West pc llo
14301 FNB Parkway, Suite 220
Omaha, Nebraska 68154
Telephone 402.496.0300
Facsimile 402.496.0333